

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. C-07-4762-PJH (EDL)

v.

**ORDER VACATING ORDER TO SHOW
CAUSE**

CHARLES CATHCART, et al.,

Defendants.


On September 1, 2009, this Court issued an Order To Show Cause why Defendants Franklin Thomason and Charles Hsin should not be sanctioned for violating the Court's Order requiring the parties' attendance at a settlement conference held on August 25, 2009. The Court ordered Defendants Thomason and Hsin to file declarations regarding their absence from the settlement conference and their failure to timely seek to be excused. On September 29, 2009, declarations in response were submitted by Defendants Thomason and Hsin, as well as Defendants' attorney, Edward O.C. Ord, and Mr. Hsin's medical doctor, Hui-Chih Yang, M.D.

Having considered the declarations of Defendants Thomason and Hsin, Mr. Ord, and Dr. Hui-Chih Yang, and in light of the fact that Judge Hamilton has since approved a stipulated injunction resolving the issues as they relate to the defendants in question, the Court hereby vacates its prior Order To Show Cause and will not impose sanctions. The Court notes that, while it appears from the declarations that the Defendants' health, location in China and/or finances could have been sufficient to excuse the Defendants from personal appearance at the settlement conference, the declarations do not address the Defendants' failure to timely seek to be excused. As the Court's Order To Show Cause stated, the Court has a specific process for requesting that a party be excused

1 from personal attendance and permitted to be available instead by telephone, requiring an advance
2 request in writing, and cautions that “personal attendance by a party will rarely be excused.” The
3 Defendants’ failure to abide by this specific process is a basis for the Court to award sanctions, but
4 the Court will forego imposing sanctions at this time. However, the Court reminds Defendants
5 Thomason and Hsin, as well as their counsel, that they must observe all procedural rules in place in
6 this district going forward or risk sanction.

7 **IT IS SO ORDERED.**

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9 Dated: October 2, 2009



10 ELIZABETH D. LAPORTE
11 United States Magistrate Judge
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